

AN ORDINANCE TO AMEND CHAPTER 38, ZONING, OF THE CODE OF THE CITY OF FALLS CHURCH, VIRGINIA, BY AMENDING AND REENACTING SECTION 38-2, DEFINITIONS AND ENACTING SECTION 38-43, AFFORDABLE DWELLING UNIT PROGRAM, TO PROVIDE A VOLUNTARY MECHANISM FOR CREATING AFFORDABLE HOUSING UNITS IN EXCHANGE FOR A RESIDENTIAL DENSITY BONUS AND/OR DEFERRED DEVELOPMENT FEES.

THE CITY OF FALLS CHURCH, VIRGINIA, HEREBY ORDAINS THAT Chapter 38, Zoning, of the Code of the City of Falls Church, VA, Sections 38-2 and 38-43, Affordable Dwelling Unit Program, be amended by enacting the following:

Section 38-43, Affordable Dwelling Unit Program.

- (a) *Purpose.* The Affordable Dwelling Unit Program is established to assist in the provision of housing to persons of low and moderate income by promoting: (a) the development of a full range of housing choices; and (b) the construction and continued existence of dwelling units which are affordable for purchase by households whose income is at least fifty (50) percent and no more than eighty (80) percent and affordable for rental by households whose income is no more than sixty (60) percent of the median income for the Washington Primary Metropolitan Statistical Area (PMSA). The following preferences shall apply in establishing the order of priority for program participants: (1) Seniors and persons with disabilities who live in the City; (2) Non-seniors who live in the City; (3) Seniors and persons with disabilities who work for the City or Schools; (4) Non-seniors who work for the City or schools; (5) Seniors and persons with disabilities who work in the City; (6) Non-seniors who work in the City; (7) Seniors and persons with disabilities who do not live in the City; and (8) Non-seniors who do not live in the City. Additional guidelines for the administration and regulation of this program are contained in the document titled, “Affordable Dwelling Unit Program—Official Administrative Procedures and Regulations.”
- (b) *Applicability.* The Affordable Dwelling Unit Program may apply to any site, or portion thereof, at one location which is the subject of an application for rezoning, special exception, site plan, or subdivision; which proposes the construction of residential dwelling units and which is located in the R-C, R-M, R-TH, T-1, or M-1 Zoning Districts; in the B-1, B-2, and B-3 Zoning Districts only through the special exception process; and/or in any Mixed-Use Redevelopment (MUR) designated areas. The following density bonus provision and/or fee deferral is applicable only once during the development process, for example, at the time of rezoning or special exception or site plan or subdivision.
- (c) *Affordable Dwelling Unit Residential Density Bonuses, Fee Deferrals, and Related Requirements.* One or a combination of the following options, (c)(1)

and/or (c)(2), is available to applicants of residential development projects, who choose to participate in the Affordable Dwelling Unit program.

- (1) Rezoning, special exception, site plan, or subdivision applicants may incorporate a maximum of a twenty (20) percent increase in the allowed density of the residential component of a proposed project, including the required number of affordable dwelling units, in exchange for incorporating a minimum of twelve and one-half (12.5) percent of the total proposed residential units as affordable dwelling units. “Allowed” density refers to that density that is defined within either the underlying zoning district regulations or within the Mixed-Use Redevelopment (MUR) zoning option as defined by section 38-34 of this Ordinance. This residential density bonus may also be applied at less than twenty (20) percent in exchange for a lesser percentage of affordable dwelling units. See section (c)(3)a for the sliding scale. In addition to a residential density bonus, applicants who include the construction of affordable dwelling units in a project are eligible, on a sliding scale, for development fee deferrals for that project. See section (c)(3)b for this sliding scale.
- (2) Rezoning, special exception, site plan, or subdivision applicants may incorporate a maximum of a twenty (20) percent increase in the allowed density of the residential component of a proposed project, including the required number of affordable dwelling units, in exchange for a cash contribution to the City of Falls Church Affordable Housing Fund. In the event that the cash in lieu of units option is chosen by the applicant, the amount of such contribution shall be equal to one hundred (100) percent of the cost of land and the cost of constructing the total number of required affordable dwelling units, that are displayed in the sliding scale in section (c)(3)a. The decision to pay cash in lieu of providing the units shall be made at the time of approval of the rezoning, special exception, site plan, or preliminary subdivision (by right), as applicable. Such cash must be paid prior to the issuance of the first building permit. All cash shall be calculated in terms of current dollars, adjusted by the Consumer Price Index, at the time the actual contribution is officially transferred to the City of Falls Church. In the event that an applicant chooses to provide a combination of cash and affordable units to meet the requirements of this Ordinance, the cash contribution shall be equivalent to one hundred (100) percent of the cost of land and the cost of constructing the total number of required affordable dwelling units less the number of affordable units to be constructed on the applicable site. If an applicant chooses to provide any cash in lieu of constructing affordable units, that applicant shall not be eligible for the fee deferrals described in section (c)(3).
- (3) Sliding Scale Residential Density Bonus and Development Fee Deferrals and the Related Requirements. The following table demonstrates the sliding scale percentage of affordable dwelling units required depending on the percentage

of residential density bonus or fee deferral sought. Only applicants who construct affordable dwelling units and offer no cash in lieu of construction shall be eligible for the fee deferrals described in the table below.

Development fees may be deferred and shall be paid to the City before the first occupancy permit may be granted. Development fees that may be deferred include site plan, rezoning, lot consolidation, subdivision, or special exception applications fees and water and sewer hookup fees. All of these fees shall be calculated and a fee deferral form shall be signed by the applicant at the beginning of each phase of the development process, e.g. rezoning, special exception, site plan, building plans, etc.

a. Residential Density Bonus

b. Development Fee Deferrals

Percentage Residential Density Bonus	Percentage ADUs Required		Percentage Fee Deferral	Percentage ADUs Required
0.00%	0.000%		0.00%	0.000%
1.00%	0.625%		5.0%	0.625%
2.00%	1.250%		10.0%	1.250%
3.00%	1.875%		15.0%	1.875%
4.00%	2.500%		20.0%	2.500%
5.00%	3.125%		25.0%	3.125%
6.00%	3.750%		30.0%	3.750%
7.00%	4.375%		35.0%	4.375%
8.00%	5.000%		40.0%	5.000%
9.00%	5.625%		45.0%	5.625%
10.00%	6.250%		50.0%	6.250%
11.00%	6.875%		55.0%	6.875%
12.00%	7.500%		60.0%	7.500%
13.00%	8.125%		65.0%	8.125%
14.00%	8.750%		70.0%	8.750%
15.00%	9.375%		75.0%	9.375%
16.00%	10.000%		80.0%	10.000%
17.00%	10.625%		85.0%	10.625%
18.00%	11.250%		90.0%	11.250%
19.00%	11.875%		95.0%	11.875%
20.00%	12.500%		100.0%	12.500%

Note: When the appropriate required percentage of affordable dwelling units produces a fractional number, the number shall be rounded to the next higher integer at or above 0.5 and shall be rounded to the next lower integer below 0.5.

- c. When an applicant utilizes the Mixed Use Redevelopment (MUR) Option described in section 38-34 with the affordable dwelling unit program described

herein, and the maximum allowable floor area ratio (F.A.R.) for the specific MUR area is achieved through the project, then an increase of ten (10) percent to the maximum allowable F.A.R. shall be permitted. This ten (10) percent density bonus must be utilized in proportion to the required ratio of uses described in sections 38-34 (b)(1)c, 38-34 (b)(2)c, and 38-34 (b)(3)c.

(d) *Designation of Affordable Units on Plats.*

- (1) Approved site plans and/or record subdivision plats shall identify the specific number of for-sale units and/or percentage of units for rent that are to be regulated as affordable units pursuant to this section.
 - a. All plans or plats for developments containing affordable dwelling for-sale units shall identify specific units that are for sale or the percentage of units for rent under the affordable guidelines in this section.
 - b. All site plans for developments containing affordable dwelling rental units shall include information concerning the number of each type of unit, by bedroom count, which shall be maintained as affordable.
- (2) Specifications regarding dwelling dimensions and the number of bedrooms in all affordable units shall meet the requirements established by the City Council or its designee. In general, dwelling dimensions and the number of bedrooms in an affordable unit should be comparable to equivalent market rate units on the subject parcel.
- (3) Affordable dwelling units shall be of a building type and of an architectural style compatible with residential units permitted within the zoning district in which they are located and interspersed among market rate units in the proposed development.

(e) *Timing of Construction/Availability of Affordable Units.* In a development which contains single-family attached or multi-family units, occupancy permits for no more than fifty (50) percent of the market rate dwelling units shall be issued prior to the issuance of occupancy permits for fifty (50) percent of the affordable dwelling units. Occupancy permits for no more than seventy-five (75) percent of the market rate dwelling units shall be issued until occupancy permits have been issued for one hundred (100) percent of the affordable dwelling units for the development.

(f) *Administration and Regulation of the Affordable Dwelling Unit Program.* The City Council or its designee may from time to time adopt regulations by resolution for the administration and enforcement of this program. The official regulations

for this program are included in the document titled, “Affordable Dwelling Unit Program—Official Administrative Procedures and Regulations.”

- (g) *Violations and Penalties.* The following provisions shall apply whenever any person, whether owner, lessee, principal, agent, employee or otherwise, violates any provision of this section or regulations adopted pursuant thereto, or permits any such violation, or fails to comply with any of the requirements hereof. These regulations are contained in the document titled, “Affordable Dwelling Unit Program—Official Administrative Procedures and Regulations.”
- (1) Owners of affordable dwelling units who shall fail to submit executed affidavits or certifications, shall be fined fifty (50) dollars per day per unit, up to a maximum of three thousand (3,000) dollars per unit, until such affidavit or certificate is filed, but only after written notice and a ten-day compliance period is provided. Fines levied pursuant to this paragraph shall become liens upon the real property and shall accumulate interest at the judgment rate of interest.
 - (2) Tenants of affordable dwelling units who shall fail to submit executed affidavits or certifications, shall be subject to lease termination and eviction procedures, as provided in the Code of Virginia.
 - (3) Owners and tenants of affordable dwelling units who shall falsely swear or who shall execute an affidavit or certification knowing the statements contained therein to be false shall be guilty of a Class II misdemeanor and shall be subject to a fine up to one thousand (1,000) dollars.
 - a. Fines levied against owners pursuant to this paragraph shall become liens upon the real property and shall accumulate interest at the judgment rate of interest.
 - b. Tenants of affordable dwelling units who shall falsely swear or who shall execute an affidavit or certification knowing the statements contained therein to be false shall also be subject to lease termination and eviction procedures, as provided in the Code of Virginia.
 - c. Owners of individual affordable dwelling units who shall falsely swear that they continue to occupy their respective affordable dwelling unit as their primary domicile shall be subject to injunction or other suit, action or proceeding to require such owner to either sell the unit to someone who meets the eligibility requirements or to occupy such affordable dwelling unit as a domicile.

1st Reading: 5-29-01
2nd Reading: 10-22-01
Adoption: 10-22-01
(T01-13)

IN WITNESS WHEREOF, the foregoing was adopted by the City Council of the City of Falls Church, Virginia on October 22, 2001 as Ordinance 1710.

Kathleen Clarken Buschow
City Clerk

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Current as of June 29, 2004